**THE HONOURABLE SRI JUSTICE**

**B.SUDERSHAN REDDY**

**AND**

**THE HONOURABLE SRI JUSTICE**

**K.C. BHANU**

**WRIT PETITION No. 6024 of 1995**

**O r d e r**: (Per BRSR, J.)

Respondents 1 and 2 in L.G.C. No. 4 of 1994 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act at Hyderabad are the petitioners in this writ petition. The writ petition is directed against the order dated 17-11-1994 passed by the Special Court where under the petitioners are held to be the land grabbers within the meaning of Sec. 2(d) and 2(e) of the A.P. Land Grabbing (Prohibition) Act, 1982 (for short 'the Act'). The Special Court ordered and directed the petitioners to pay the market value at the rate of Rs.800/- per Sq. yard to the respondent-Government in lieu of eviction of the sites in their occupation in Sy.No. 230/3.

The 1st respondent herein filed the L.G.C. against the petitioners herein and two others *inter alia* alleging that they have respectively encroached upon an extent of 300 Sq. yards i.e., each one of them occupied 100 Sq. yards in Sy.No. 230/3 of Nacharam village in Kapra Mnnicipality. The land in Sy.No. 230/3 admeasuring Ac. 0-27 guntas stands classified as 'Poramboke Sarkari' in the revenue records. The petitioners herein have occupied the Government land without any legal entitlement.

The case set up by the petitioners herein before the Special Court was that the Vazir Sultan Tobacco Company Workers Coop. Housing Society Limited (impleaded as 4th respondent in the L.G.C) purchased an extent of Ac.17-07

guntas of land in Sy.No.230/1 of Nacharam village under the registered sale deed dated 14-8-1975 from the owners of the land and divided the land into plots and allotted them to the members of the society. The petitioners claim that they have been allotted the land in their possession and even registered sale deeds were executed in their favour on 10-2-1986 by the society. Each of the petitioners was allotted 100 Sq. yards of land.

The 4th respondent in the L.G.C. filed its counter broadly supporting the stand taken by the petitioners.

That on behalf of the respondent-State, three witnesses were examined and Exs.A1 to A3 were marked. On behalf of the petitioners herein, the 2nd respondent in the L.G.C was examined as RW1 and Exs.B1 to B3 were accordingly marked.

The whole of the claim of the respondent-State is based upon the allegation that the land alleged to have been occupied by the petitioners herein forms part of Sy.No.230/3 of Nacharam village and not Sy.No.230/1 as contended by the petitioners. In support of the same, the respondent-State examined PW-2-Surveyor working in the office of the Mandal Revenue Officer, Uppal Mandal. He is none other than the Commissioner appointed by the Special Court vide the order dated 23-8-1994 made in I.A.No. 1060 of 1994 by the Special Court. That after being appointed as Commissioner by the Special Court, PW2 made inspection of the land and surveyed it. He prepared Ex.A2-sketch and found that the land in possession of the petitioners herein was located in Sy.No.230/3 and not in Sy.No.230/1. In the cross-examination, PW2 admitted in categorical terms that he did not give notice to the petitioners before the inspection of the petition schedule land. That he did not prepare any report regarding the survey conducted by him as it was only meant for the purpose of verifying the correctness or otherwise of Ex.A2-sketch.

It is thus clear that the Commissioner was appointed to verify the

correctness or otherwise of Ex.A2-sketch prepared and filed by the respondent-State along with the application. No record has been filed in support of the plea that the land alleged to have been occupied by the petitioners herein forms part of Sy.No.230/3 and not 230/1 of Nacharam village. For the first time, an attempt was made to find out as to in which survey number the land alleged to have been occupied by the petitioners is located. It means that at the time of filing of the L.G.C. against the petitioners herein even the respondent-State was not sure as to whether the land alleged to have been occupied by the petitioners herein forms part of Sy.No.230/1 or 230/3 of Nacharam village. No survey record has been filed to establish that the land occupied by the petitioners herein forms part of Sy.No.230/3 which is admittedly classified as Government land being used as burial ground. In our considered opinion, the respondent-State did not discharge the burden of establishing and making out even the prima facie case, in which event the burden could have been shifted on the petitioners herein to establish that they were in possession of the land in their right and had legal entitlement to remain in possession thereof.

In our considered opinion, the findings recorded by the Special Court are based on no evidence. It is a clear case of no evidence and the findings recorded cannot be equated to that of a finding of facts based on evidence. The findings and conclusions recorded by the Special Court are exfacie illegal and suffer from errors apparent on the face of the record. It is eminently a fit case requiring this Court's interference in exercise of its certiorari jurisdiction.

For the aforesaid reasons, we find the order passed by the Special Court to be unsustainable in law. The order is accordingly quashed.

The writ petition is accordingly allowed. There shall be no order as to costs.

The amount stated to have been deposited shall be refunded to the petitioners.

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**B.Sudershan Reddy, J.**

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**K.C. Bhanu, J.**

29th September, 2004

grr

Rule nisi has been made absolute. Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the twenty ninth day of September, Two Thousand and Four.

To

The Mandal Revenue Officer, Uppal Mandal, R.R. Dist.

2. Two copies to the Govt. Pleader for Revenue, High Court of A.P., Hyderabad.(OUT)

3. Two C.D. copies

4. The Special Court under A.P.Land Grabbing (Prohibition) Act, at Hyderabad.